

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ABRUZZO DOCG INC. d/b/a
TARALLUCCI E VINO, et al.,

Plaintiffs,
v.

ACCEPTANCE INDEMNITY
INSURANCE COMPANY, et al.,

Defendants.

Case No. 1:20-cv-04160-MKB-JO

**DEFENDANT SENECA INSURANCE COMPANY'S JOINDER TO AND NOTICE
OF MOTION TO SEVER PURSUANT TO FED. R. CIV. P. 21 AND JOINDER IN
OPPOSITION TO PLAINTIFFS' MOTION TO REMAND**

Pursuant to Fed. R. Civ. P. 21, Defendant Seneca Insurance Company (“Seneca”), through its attorneys, Kennedys CMK LLP, hereby joins in the Motion to Sever each individual Plaintiff’s claim for insurance coverage against each respective insurer for alleged business income losses or other expenses arising from the COVID-19 pandemic, and in particular, the lone claim asserted against Seneca in this action by Plaintiff Emporium SF LLC (“Emporium SF”). Seneca also joins in the Defendants’ opposition to Plaintiffs’ Motion to Remand.

In furtherance thereof, Seneca incorporates as if set forth at length herein (i) the Memorandum of Law and supporting papers submitted by Defendant Chubb Custom Insurance Company and Indemnity Insurance Company of North America, dated October 20, 2020; (ii) the Memorandum of Law and supporting papers submitted by Defendant Acceptance Indemnity Insurance Company, dated October 20, 2020; and (iii) Seneca’s Notice of Joinder and Consent to Defendant Acceptance’s Notice of Removal dated October 16, 2020 (ECF doc. no. 109).

The allegations against Seneca in the 225-page Amended Complaint in this action are contained in a mere handful of paragraphs and asserted by only one of the many plaintiffs, Emporium SF. See Amended Complaint, ECF doc. no. 1-40, at ¶¶731-736.

Although it is alleged that Emporium SF, which is organized under the laws of the State of California and maintains its principal place of business in San Francisco, California, purchased an insurance policy from Seneca, which is organized under the laws of the State of New York and maintains its principal place of business in New York, New York, the Amended Complaint has not alleged - and in fact cannot allege - any such similar business or contractual relationship between Seneca and any other plaintiff in this action.

That is because the Amended Complaint is not simply one single lawsuit; rather, it is an improper effort to combine many lawsuits involving many different entities, claims, and contracts that have no relationship with each other.

Removal of this action is proper for the reasons stated in Seneca's Notice of Joinder and Consent to Defendant Acceptance's Notice of Removal and in Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion to Remand, dated October 20, 2020.

Further, severance of this action is proper for the reasons stated in Seneca's Notice of Joinder and Consent to Defendant Acceptance's Notice of Removal and in the Memorandum of Law and supporting papers submitted by Defendant Chubb Custom Insurance Company and Indemnity Insurance Company of North America, dated October 20, 2020.

Upon the foregoing and upon all of the proceedings heretofore, Seneca respectfully requests that this Court enter an Order: (i) granting Seneca's Notice of Joinder and Consent to Defendant Acceptance's Notice of Removal; (ii) removing the claim Emporium SF initially alleged in state court against Seneca to this Court; (iii) severing Emporium SF's claim against Seneca; and (iv) granting Seneca such other and further relief as the Court deems just and proper.

Dated: New York, New York
October 20, 2020

By: /s/ Douglas J. Steinke

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